

# **Exhibit B**

COURT OF COMMON PLEAS OF MONROE COUNTY  
FORTY-THIRD JUDICIAL DISTRICT  
COMMONWEALTH OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : NO. 391 CRIMINAL 2008  
vs. ....  
CHARLES RAY HICKS, ....  
Defendant : JURY TRIAL

ORIGINAL

TRANSCRIPT OF PROCEEDINGS

BEFORE: Margherita Patti-Worthington,  
President Judge

DATE: November 18, 2014  
9:00 o'clock a.m.

PLACE: Courtroom No. 1  
Monroe County Courthouse  
Stroudsburg, Pennsylvania

APPEARANCES:

Michael Mancuso, Esquire  
-- On behalf of the Commonwealth

RECORD FILED IN  
SUPREME COURT

MAR 19 2015

EASTERN  
DISTRICT

Robin A. Spishock, Esquire  
- and -  
Jason LaBar, Esquire  
-- On behalf of the Defendant

Proceedings stenographically recorded by  
Eva M. Rulapaugh, RPR



1 TIPSTAFF: Tell the Court your name.

2 THE WITNESS: I'm Carol Armstrong.

3 Thereupon:

4 **CAROL ARMSTRONG, PH.D**

5 having been first duly sworn, was examined and  
6 testified upon her oath as follows:

7 **DIRECT EXAMINATION**

8 BY MS. SPISHOCK:

9 Q. Morning, Dr. Armstrong. What is your current  
10 employment?

11 A. I'm a neuropsychologist at the Children's Hospital  
12 of Philadelphia, associated with the University of  
13 Pennsylvania, and I have a private practice.

14 Q. And like I said to Dr. Weiss, I'm not very familiar  
15 with medical terminology. Could you explain to me a little bit  
16 in layman's terms what a neuropsychologist is.

17 A. A neuropsychologist is a psychologist who has  
18 specialized in brain functioning. A neurologist is someone who  
19 is an expert on the sensory and motor systems of the brain, and  
20 a neuropsychologist is an expert on the cognitive systems of  
21 the brain.

22 But because we're psychologists, we use psychometric  
23 methods so that we can measure these cognitive brain functions.  
24 So we bring together some neurological knowledge and  
25 psychometric knowledge to be the best at measuring brain

1 functions.

2 Q. And what do brain functions tell you about people?

3 A. They can tell us how we process normally, how --  
4 what happens when different areas of the brain are injured and  
5 how that might affect function. It can tell us how we develop.  
6 I'm not quite sure more specifically what you mean, but  
7 cognitive functions, how we adapt and learn.

8 Q. Based on actually what's in the brain, not  
9 necessarily what's in your thought process -- correct? --  
10 something actually physically in the brain?

11 A. Yes. Neuropsychologists are one of those  
12 professions that think that everything we think is in the  
13 brain. It's not really a difference.

14 Q. Okay. Can you give me a little educational  
15 background of yourself.

16 A. I have a bachelor's degree in psychology from Vassar  
17 College. A Ph.D in psychology from the Wright Institute in  
18 Berkeley, California. I have two postdoctoral fellowships in  
19 neuropsychology, and now practice as a board-certified  
20 neuropsychologist.

21 Q. I have your curriculum vitae here, and it's very  
22 lengthy. Obviously your most recent employment is as you just  
23 stated. And you've had several publications as well; is that  
24 correct?

25 A. Well, I have a good number of publications. I also

1 have a book on medical neuropsychology. That's more recent.  
2 I'm a fellow of the American Psychological Association in the  
3 division of neuropsychology. I'm a fellow of the National  
4 Academy of Neuropsychology. All I have done for the past  
5 30-plus years is neuropsychology.

6 Q. I was just going to ask you how long have you been  
7 in the field. Thirty-plus years?

8 A. I don't do therapy. I just do neuropsychology. I  
9 do research, as well as evaluations.

10 Q. Okay. And just explain to me briefly, when you say  
11 I don't do evaluations, I do neuropsychology, what do you mean  
12 by that?

13 A. I don't do therapy.

14 Q. Therapy. I'm sorry. You do neuropsychology. What  
15 do you mean by that?

16 A. I just do the cognitive testing of individuals to  
17 understand their brain-associated cognitive functions. These  
18 are all tests that have research behind them, that have been  
19 designed to measure brain functions. So they're not like IQ  
20 tests. They're a little different than that.

21 And I don't do therapy anymore. I don't just read  
22 records. I only do neuropsychological evaluations or I do  
23 research, which can mean other things as well.

24 Q. And have you ever been admitted as an expert in the  
25 field of neuropsychology in any court in the Commonwealth of

1 Pennsylvania?

2 A. Yes, I have been in many of the Court of Common  
3 Pleas, as well as other states and federal court.

4 Q. Have you been in Monroe County yet?

5 A. I think that I might have, but I would have to look  
6 at my records to see. I don't recall being in this building  
7 before.

8 MS. SPISHOCK: Your Honor, I'd offer Dr. Armstrong  
9 as an expert in neuropsychiatry.

10 THE WITNESS: Neuropsychology.

11 MS. SPISHOCK: Psychology. I knew I was going to  
12 get that wrong.

13 THE COURT: Any voir dire, Mr. Mancuso?

14 MR. MANCUSO: Welcome to Monroe County, ma'am.

15 No questions.

16 THE COURT: Dr. Armstrong is qualified to testify  
17 as an expert in the field of neuropsychology.

18 (Defendant's Exhibit No. 2 was marked for  
19 identification.)

20 BY MS. SPISHOCK:

21 Q. I'm going to show you what I've had marked as  
22 Defendant's Exhibit No. 2, and ask you if that's your  
23 curriculum vitae?

24 A. Yes, it is.

25 Q. And is that the most current curriculum vitae you

1 have?

2 A. Yes.

3 MS. SPISHOCK: I'd just move for the admission of  
4 that.

5 MR. MANCUSO: No objection.

6 THE COURT: It's admitted.

7 (Defendant's Exhibit No. 2 was admitted into  
8 evidence.)

9 BY MS. SPISHOCK:

10 Q. Dr. Armstrong, were you contacted by attorneys for  
11 Mr. Hicks to perform various neuropsychological testings? We  
12 had a psychiatrist yesterday; so I'm getting all messed up.

13 A. Yes.

14 Q. To perform those on Mr. Hicks?

15 A. Yes.

16 Q. Okay. And could you tell the jury which tests you  
17 performed and what the purpose of those tests are.

18 A. Well, since there were about 45 tests, I won't name  
19 all the tests. I'll just give a summary of the tests.

20 Q. Absolutely.

21 A. Okay. So the tests' battery is designed to sample,  
22 that is, do some measurement of all the regions of the brain,  
23 cortical, as well as subcortical, and all the important  
24 cognitive systems. It's meant to break things down into  
25 specifics.

1                   So, for example, when I measure memory, I'm not just  
2 measuring one memory type of process. I'm measuring both  
3 verbal and visual memory processes. I'm measuring working  
4 memory and coding, resistance to interference, retrieval from  
5 long-term memory consolidation.

6                   I know these are technical terms, but I'm making the  
7 point that there are different ways that we use our memory.  
8 They indicate different things about how the brain is  
9 organized. Different systems are associated with different  
10 regions, and so an example of how neuropsychologists try to  
11 break cognitive processes down to be very specific

12                  Q.     Is this a battery of tests that you would do on  
13 everybody to determine their different cognitive processing?

14                  A.     Yes, I test both children and adults. And this is  
15 the same battery -- it's the same structure of battery that I  
16 use for all the children and the adults. It's the same battery  
17 I use for all the adults.

18                  Q.     And you conducted this battery of testing on Mr.  
19 Hicks, correct?

20                  A.     Yes.

21                  Q.     Okay. And did you have any results of any interest?  
22 In other words, did they show you anything?

23                  A.     So I guess the question is, did Mr. Hicks have any  
24 neuropsychological impairments with testing?

25                  Q.     Impairment or deficiencies, yes.

1           A.     Yes, he did have some impairments.

2           Q.     Okay. And what specifically did you note as  
3 impairments?

4           A.     So I guess I should say one more thing. The way  
5 that -- may I give another explanation of neuropsychological  
6 evaluations?

7           Q.     Absolutely.

8           A.     So IQ tests are -- people are familiar with IQ tests  
9 and what they do. IQ tests are normed by giving them to large  
10 groups of people who represent a whole country. Everyone's  
11 included. But neuropsychological tests are not normed that  
12 way. They're only given to the healthy and typically  
13 developing. People are screened before given those tests.

14                 So to answer your question, it's not how smart we  
15 are, which is what IQ tests are for, but how likely is  
16 something neurologically wrong or not. That's the purpose of  
17 neuropsychological testing. That's why they're used in  
18 neurological diagnosis, medical diagnosis, psychiatric  
19 diagnosis, and so on.

20                 And so how do we know that? Well, we know that by  
21 giving them to the healthy and typically developing and then  
22 looking to see -- when we have an individual whom we suspect  
23 has an impairment, we look to see how likely is it that his  
24 score or her score is different from that of healthy  
25 individuals. That's what psychometric testing does.

1                   So his scores -- I used a kind of a standard that's  
2 a common one, which is that if a test falls one standard  
3 deviation below the means -- standard deviation is the average  
4 amount of variability within a group. If he falls below  
5 average of the amount of variability, it's mildly impaired.

6                   If it's one-and-a-half variation, it's moderately  
7 impaired. If it's two variations -- so two variations below  
8 the means, means that less than 2 percent of healthy typically  
9 developing people will respond that way.

10                  So that's, again, just to give an idea of how we're  
11 trying to use statistics and the probability of whether  
12 something's normal or not to understand the findings.

13                  Q.     So your healthy typically developed people are your  
14 baseline?

15                  A.     Yes.

16                  Q.     Essentially for -- okay.

17                  A.     Yes.

18                  Q.     Just to be clear, did you do this testing with any  
19 information or was this blind testing going in?

20                  A.     I do my testing generally blind, in the sense that  
21 what's important to me is not to go in with any biases about a  
22 person and to just do testing.

23                  This testing is considered objective. If the  
24 testing conditions are right, if they're screened for -- if  
25 they're monitored for any kind of manipulation or exaggeration

1 deficit, you can achieve those standards.

2 If a person is comfortable, they get the idea that  
3 there is supposed to -- the best they can do if you can achieve  
4 those testing conditions and administer the test in standard  
5 ways so that you're just asking for certain kinds of  
6 information, then you can say that the results are objective.

7 So neuropsychological testing is considered to be  
8 objective. So I'm looking to see what's wrong. I don't need  
9 to know why it's wrong. I'm just looking to see what is  
10 wrong.

11 Q. If anything, correct?

12 A. When I go in to evaluate an individual, yes, that's  
13 right, if any.

14 Q. Right.

15 A. People don't always have impairments.

16 Q. I wouldn't want to see mine.

17 What, if anything, of note did you find in the  
18 results from Mr. Hicks?

19 A. So compared to people of his age and education, his  
20 impairments were in something called "manual praxis," which  
21 is -- this is an example of one of the tests that are given.  
22 Just simple asymmetric hand movement.

23 That's the key. As soon as we move our limbs in an  
24 asymmetric way, it requires higher brain control. Even a  
25 simple task like that. So he had some impairment in that task.

1 He wasn't able to keep -- he wasn't able to maintain the motor  
2 plan that he had been instructed in and had begun doing.

3                   He had a number of problems with taking in  
4 information that he hears, beginning at the level of selective  
5 attention, auditory selective attention. That means a  
6 preconscious attention to what is important in the environment.

7                   An example is that you're sleeping at night and  
8 you've learned to ignore the trash cans and the dogs barking,  
9 but if your baby cries, you wake up immediately. Your brain,  
10 even when you're sleeping, is evaluating what's important. It  
11 can do that cognitive processes but you're not conscious.

12                  Q.     Right.

13                  A.     So it's a way of testing this preconscious ability  
14 to take in what we hear.

15                  Also, his auditory divided attention. So being able  
16 to kind of multiply think things -- it's kind of multitasking,  
17 the idea being able to switch very readily from one thought to  
18 another.

19                  Auditory sentence comprehension. So being able to  
20 understand the full meaning of what he hears. Errors were made  
21 because of a certain type of linguistic. It's a linguistic  
22 test. It's about language. Can you understand all the  
23 language that you're hearing. So he was impaired in that.

24                  He also had one verbal memory impairment out of a  
25 good number, and he had two visual memory impairments having to

1 do with -- both of them had to do with getting things into  
2 permanent memory. But the visual one was more involved, and he  
3 had more trouble retrieving it from memory as well.

4 He also had an impairment in problem solving, a  
5 basic trial and error task he was given to do, and in a measure  
6 of cognitive flexibility, which is the ability to not keep  
7 doing the same wrong thing when you're given negative feedback,  
8 things that's wrong. So we measure how many times we keep  
9 doing the wrong thing, even when they're told that's wrong,  
10 that's wrong during the problem solving test.

11 Q. And so what do all these impairments mean?

12 A. Well, they go beyond -- you know, I've done a lot of  
13 research; so I actually have a lot of normal data across the  
14 life span, and I've looked at it many times, and I know that  
15 people don't -- this is not a normal pattern.

16 You know, an attorney is very busy and may think  
17 that he or she has impairment, but you probably don't. Because  
18 I've actually tested some people to show them, no, you don't  
19 have impairment.

20 So this kind of impairment does not occur in healthy  
21 individuals, healthy typical. It's not probable at all. None  
22 of the normal healthies have this kind of impairment.

23 I can say with, at least, reasonable certainty that  
24 he has neuropsychological impairment that indicates brain  
25 dysfunction.

1 Q. And that brain dysfunction would affect various  
2 aspects of his life, decision-making, problem solving, as you  
3 indicated, things of that nature; is that correct?

4 A. Yes.

5 Q. Would it also affect his ability to make good  
6 judgments?

7 A. Very possibly.

8 Q. Okay.

9 MS. SPISHOCK: If I can just have a minute.

10 Excuse me, Doctor.

11 (Brief pause.)

12 BY MS. SPISHOCK:

13 Q. Doctor, even though he exhibits these deficiencies,  
14 it is possible for him to make good decisions, correct?

15 A. Yes.

16 Q. His judgment isn't always poor, correct?

17 A. That's correct. There were many cognitive functions  
18 he had in which his score was somewhere in the typical range,  
19 the average range.

20 Q. And are you aware -- I know you made a report and  
21 you listed a lot of background information. That was  
22 information you received subsequent to the testing; is that  
23 correct?

24 A. Yes.

25 Q. Okay. And in the information you received, did you

1 also receive information regarding how he is conducting himself  
2 in the jail at this point?

3 A. Let me think. I don't remember what was in what  
4 report, but I don't believe I have any prison reports,  
5 though.

6 Q. Okay. That's fair enough. But if he's conducting  
7 himself well in the jail over the past six years, that's an  
8 indication of what you just said, he is capable and can make  
9 the right decisions -- correct? -- despite these impairments  
10 and deficiencies?

11 A. Yes. I mean, prison's a very structured place.  
12 And, yes, he's able to function. It doesn't surprise me if  
13 those records say that he's able to function in an adequate way  
14 in that environment.

15 Q. No, he's not just functioning in an adequate way.  
16 He's thriving apparently. Nothing further. Thank you.

17 THE COURT: Mr. Mancuso?

18 MR. MANCUSO: I have a couple questions.

19 THE COURT: Okay.

20 **CROSS-EXAMINATION**

21 BY MR. MANCUSO:

22 Q. Ma'am, my name is Mike Mancuso. Good morning. Nice  
23 to see you. The questions I have are going to kind of track  
24 your report, which I got the other day. So just bear with me.

25 The Defendant -- he completed high school, correct?

1           A.     I want to review for a second. I think he went into  
2 vo-tech. Yes.

3           Q.     You have education, 12th grade on the top.

4           A.     Yes, that's correct.

5           Q.     All right. And then he also completed technical  
6 training.

7           A.     Yes.

8           Q.     And you noted he has a history of skilled  
9 employment.

10          A.     Yes.

11          Q.     And that's important for you to know, at least at  
12 some point in the evaluation, correct?

13          A.     Yes.

14          Q.     And, oh, by the way, he is a righty, right-handed?

15          A.     Yes.

16          Q.     All right. And then for the testing that -- a  
17 couple I have some questions about. You had indicated in the  
18 testing results that he had a very high rate of perceptual  
19 matching; is that correct?

20          A.     A high rate of error in perceptual matching, yes.

21          Q.     And what is that?

22          A.     So at the top -- I have to describe it a little bit.  
23 At the top of a page there are little simple shapes, like a  
24 curve one way, a curve another way, a straight line, little  
25 simple shapes, and below them are numbers.

1                   One directs the individual to notice that they're  
2 paired together, and then they get a practice, and after the  
3 practice you see how many -- they're given just the shapes, and  
4 they have to orally tell you what is the number that went with  
5 the shape.

6                   They're still looking at the key and they're doing  
7 it. They have a minute and a half. His score is compared to  
8 people of his age and education, and he made an unusually high  
9 rate of errors. He picked out the wrong one. He made an error  
10 in matching the shape of the number.

11                  Q. Oh, because you have it down as a very high rate of  
12 perceptual matching. Does that mean --

13                  A. A very high rate of errors, though, correct.

14                  Q. I didn't see that. If you could point that out. I  
15 want to make sure I'm reading this right.

16                  A. Pardon me. What page are you on?

17                  Q. I believe it's page 2.

18                  A. Right.

19                  Q. Yes.

20                  A. Under process and speed, correct?

21                  Q. Yes.

22                  A. It's the second one. I've called -- these are  
23 little -- my descriptions of what the test was meant to  
24 measure. It's called visuospatial tracking and transcoding,  
25 coding from one symbol to another.

1 Q. That's it.

2 A. His score was average. It's a speeded test. He  
3 made a very high rate of perceptual matching errors.

4 Q. Oh, okay. I see. All right.

5 A. Yeah.

6 Q. So the overall result was average, but there was a  
7 high rate of these matching errors?

8 A. Yes, because his speed was good.

9 Q. Okay. The next one I wanted to ask about was verbal  
10 fluency. You had him as above average on that. It's under  
11 language.

12 A. Yes.

13 Q. 93rd percentile?

14 A. Yes.

15 Q. The next one I wanted to ask you about was a high  
16 average reading, word recognition.

17 A. Yes.

18 Q. You have him as greater than a 12.9 grade  
19 equivalent.

20 A. Yes.

21 Q. So he's a good reader?

22 A. Yes. Word reader, yes.

23 Q. Okay.

24 A. It's not sentences or paragraphs. It's just  
25 words.

1 Q. Sure. Then you have facial perception, 97th  
2 percentile. What is that, ma'am?

3 A. On that test, photographs are used. The person is  
4 shown at the top of a page a photograph of one person and below  
5 that are six photographs of people, and they have to pick out  
6 the one that is of the same person.

7 In the beginning, the items are easier and it's  
8 exactly the same photo. As the items get harder, their shading  
9 changes, you have less and less information, and the person may  
10 not always be posed the same way. They may be turned. So it's  
11 perception and discrimination within perception. So it's being  
12 able to match faces.

13 Q. Some people remember faces better than others?

14 A. Well, no, this isn't memory. It's just perceiving  
15 faces.

16 Q. Okay. His perception, how he perceives faces --

17 A. Yes.

18 Q. -- was above average?

19 A. Yes.

20 Q. Okay. I wasn't sure what that meant.

21 Then you have visuospatial working memory, 88th  
22 percentile; is that correct?

23 A. Yes.

24 Q. What does that measure?

25 A. So that's a simple task in which there are eight

1 squares. They look kind of -- little half-inch, colored  
2 squares of the squares of the same color distributed kind of  
3 randomly on a page. And I, the examiner, touch them. We start  
4 with the short sequences. We get to longer sequences.

5 I touch them in a certain order and then the  
6 other -- the person being tested has to touch them in the same  
7 order immediately. So you have to remember what you saw. It's  
8 a visual, but it's also spatial. You have to get the right  
9 configuration.

10 Q. And he did well in that apparently?

11 A. Yes.

12 Q. Okay. The next one -- I might be on page 3, ma'am.  
13 Delayed recall of figures, 91st percentile. It's the top of  
14 page 3. Do you see that? The delayed recall figure is 91st  
15 percentile, above average. What does that measure?

16 A. Yes, that test is being shown a design for ten  
17 seconds. I make the person study it for ten seconds, take it  
18 away, and they draw it immediately from memory.

19 The first item is kind of harder -- I mean is easy.  
20 There are five altogether. The last one is quite hard. There  
21 is a range of difficulty. They're just geometric, non nameable  
22 pictures.

23 When he did it the first time, his score was low,  
24 around 27th percentile. The delayed recall shows that he was  
25 able to retain the information in memory over time. So he did

1 a very good job at retaining what he had drawn the first  
2 time.

3 Q. Okay. The next one I wanted to ask you about -- you  
4 have also on page 3 complex visual memory, above average  
5 absolute recall, 97th percentile. Do you see that?

6 A. Yes. So that is another design that's geometric,  
7 not nameable, that he had previously copied. So he had as much  
8 time as he wanted to copy it. And he had 65th percentile in  
9 that. That's average. And then there's a minimal delay. Then  
10 I asked him to recall it from memory, and he recalled most of  
11 it and got the 97th percentile.

12 Q. I guess that design is more complex than the other  
13 ones?

14 A. Yes, but this is one where he got to copy it first;  
15 so it's different.

16 Q. And then the next one on that same list you have  
17 long-term visual memory consolidation, above average recall  
18 after delay, 97th percentile. What does that measure?

19 A. So that's how well -- really, the next item average  
20 retention over time, 36th percentile -- time is the more  
21 sensitive score. That's how much he was able to retain over  
22 time. Basically he was average in that.

23 Q. Okay. And then still going through the report,  
24 reasoning and executive functions. You see that section also  
25 on page 3?

1 A. Yes.

2 Q. You have the fund of general knowledge high, around  
3 75th percentile. What is the fund of general knowledge?

4 A. That is from the IQ battery. It's a simple question  
5 and answer test about school-based knowledge.

6 Q. And he did well on that?

7 A. Yes.

8 Q. If you go down that list, you have -- I think the  
9 sixth one down -- inferential reasoning, above average, 84th  
10 percentile.

11 A. Yes.

12 Q. What is inferential reasoning?

13 A. So it's the ability to make a general inference from  
14 something that one knows personally. So it's a series of  
15 questions that no one knows the exact answer to, such as how  
16 many seeds are there in a watermelon.

17 Most people have eaten a piece of watermelon and  
18 they can make a guess. Now you're asking how many seeds are  
19 in a whole watermelon. This was normed, given to typically  
20 healthy adults, and then taking their scores that fell between  
21 the 5th and the 95th percentile and accepting that.

22 His scores -- most of his scores fell within the  
23 95th percentile. What does it mean? It means he's able to  
24 make a generalization based on his personal knowledge. And  
25 that's really what making inferences is about, going from what

1 you know to something more.

2 Q. So you have to figure one slice of watermelon I  
3 might get ten pits, and then try to figure out how many slices  
4 in a whole? That kind of processing?

5 A. Yes. How far can --

6 Q. Okay.

7 A. -- a horse pull a farm cart in -- I forget what it  
8 was -- an hour, or something like that. Things you don't know  
9 and you make a good guess.

10 Q. Okay. Now, you have the next section of the report  
11 you've entitled "mood," and you noted that Mr. Hicks reported  
12 he does not currently feel depressed; is that accurate?

13 A. That's what he said, yes, when I asked him directly  
14 are you depressed.

15 Q. Right. Down further in that second paragraph under  
16 "mood" he reported he does not suffer with anxiety currently.  
17 Is that what he told you?

18 A. Yes.

19 Q. Okay. And he seemed calm in his demeanor throughout  
20 the process and the testing, correct?

21 A. Yes.

22 Q. But then you go into a history. I guess it's under  
23 background information. So as Attorney Spishock said, after  
24 the battery of testing is completed, you ask him questions  
25 about his background; is that correct or not?

1           A. It starts -- it's not after testing. Before testing  
2 there's a neurodiagnostic interview which is not open-ended  
3 questioning. It's a large set of questions about things in  
4 life that can cause brain dysfunction. So it's a way of  
5 screening out problems, as well as trying to identify possible  
6 problems.

7           Q. So you had that information from that questionnaire  
8 before the testing started?

9           A. Not a questionnaire. An interview.

10          Q. An interview?

11          A. Yes. It's face-to-face. It's the first thing I do,  
12 go through an interview. It might take an hour, and then do  
13 the testing.

14          Q. So prior to that interview, did you have any  
15 background information about the Defendant from the mitigation  
16 expert or the attorneys? Anything like that?

17          A. No.

18          Q. Okay.

19          A. I knew what his crime was.

20          Q. From what source?

21          A. I mean -- oh, from their initial contact with me to  
22 ask me to do it.

23          Q. Okay.

24          A. We have this case, are you able to evaluate him.

25          Q. I see. So when you wrote up the section in the

1 report called "background information," and you say information  
2 gathered from interviewing with Mr. Hicks and from the  
3 mitigation history, from Wanda Lynn Taylor, Ph.D, when did you  
4 get that information?

5 A. What's written there is what I had when I wrote this  
6 report.

7 Q. Yeah, when did you get that in conjunction with the  
8 testing?

9 A. Well, after, but I don't recall how long after.

10 Q. No, I --

11 A. Yes, after the testing.

12 Q. And what was that information? Did it contain the  
13 police reports about the crimes alleged against the  
14 Defendant?

15 A. No, it was the result of her, I believe,  
16 interviewing --

17 Q. Okay.

18 A. -- or her compilation of records.

19 Q. Because I note under medical and psychiatric history  
20 at the bottom of page 5 of your report he had attempted suicide  
21 in 2002, 2006, 2007, and 2008. Do you see that at the very  
22 last sentence?

23 A. Yes.

24 Q. Where did you get that information from?

25 A. A combination of his report to me and that history

1 report.

2 Q. Okay. In this case, there was evidence of the  
3 Defendant's violence toward women. Certain women came up here  
4 and testified in the guilt phase about being assaulted by the  
5 Defendant. Did you have any of that information?

6 A. I don't think so.

7 Q. That information, that violence toward women, would  
8 that have been helpful to you in rendering your report, when  
9 you get all those pieces together and you analyze it as a  
10 whole?

11 A. Well, my main purpose was to do neuropsychological  
12 testing. That's my main contribution. That's what I'm an  
13 expert in.

14 Q. I understand.

15 A. And so the neuropsychological results are my purpose  
16 for doing the evaluation. I mean, that's -- and those don't  
17 depend on any other information. I can know nothing about a  
18 person and still write a report on them if I have to.

19 Q. Okay.

20 A. In other words, I wouldn't be able to do some sort  
21 of differential diagnosis, but -- you know, and I try to look  
22 for some of those factors in the interview; but nevertheless  
23 the results stand, even if we don't know what caused them.

24 Q. Oh, I'm not challenging the results in any way.  
25 Just the three or four pages of background information -- would

1 you agree that it would be more complete if it had contained  
2 more of that assault history?

3 A. It depends -- what I'm looking for -- as I said,  
4 it's neurodiagnostic. It's not a psychiatric I do. It's a  
5 neurodiagnostic one. If the information reflected on his  
6 neurological status, then it would be relevant to a  
7 neuropsychological evaluation.

8 If it reflects on behaviors of his that don't have  
9 to do with his neurological -- I mean, I don't know. I'm just  
10 saying that what's important to know is information that  
11 reflects on his medical, psychiatric, and neurological history  
12 that can cause brain dysfunction.

13 Q. Right.

14 A. So, like I said, my questions are not open-ended.  
15 They're specific. Did you have this? Did you have that? What  
16 is the nature of this? What is it that you perceived? And so  
17 on.

18 Q. Okay. So basically you don't know whether it would  
19 be helpful or not because you don't know what that information  
20 is? In other words, whether it would bear upon his cognitive  
21 function?

22 A. Yes. I can't know unless -- yes, that's correct.

23 Q. Thank you, ma'am. I have no further questions.

24 THE COURT: Attorney Spishock?

25 MS. SPISHOCK: I have no redirect.

1                   THE COURT: Thank you, Dr. Armstrong. You may  
2 step down, and you're excused.

3                   THE WITNESS: Okay. Thank you.

4                   THE COURT: Mr. Johnson.

5                   MS. SPISHOCK: Can you hear us, Mr. Johnson?

6                   THE WITNESS: (Nods head.)

7                   MS. SPISHOCK: We can't hear you, though.

8                   THE WITNESS: Morning, Your Honor.

9                   THE COURT: Good morning, Mr. Johnson. You are  
10 appearing via videoconferencing in the case of  
11 Commonwealth vs. Charles Ray Hicks. And this is the  
12 time set for your testimony; so will you please stand  
13 and raise your right hand to be sworn.

14                   (Witness sworn.)

15                   TIPSTAFF: Tell the Court your name again.

16                   THE WITNESS: My name is Jerel Jermaine Johnson.

17                   THE COURT: Would you spell that, Mr. Johnson,  
18 your first name.

19                   THE WITNESS: Sure. It's J-e-r-e-l. Last name  
20 Johnson.

21                   THE COURT: Okay. And, Mr. Johnson, if at  
22 any time you cannot hear a question, please say so, so  
23 that it can be repeated. All right?

24                   THE WITNESS: Yes, Your Honor.

25                   THE COURT: Thank you.